

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

INTERFOCUS INC., a California Corporation,

Plaintiff,

v.

The Defendants Identified in Schedule A,

Defendants.

Case No.: 1:22-cv-02259

Honorable Steven C. Seeger

DEFENDANTS' CONTINGENT MOTION FOR LEAVE TO FILE A SUR-REPLY

On October 28, 2022, Plaintiff filed a Reply Brief On Plaintiff's Motion For Preliminary Injunction, relying on new evidence collected after its Opening Brief filed on October 13, 2022. Plaintiff collected additional evidence after Defendants filed their Response on October 25, 2022.

To the extent that the Court considers Plaintiff's new evidence, Defendants respectfully move for leave to file a sur-reply brief. *See Meek v. Archibald & Meek, Inc.*, No. 21-CV-02397, 2021 WL 2036535, at *3 (N.D. Ill. May 21, 2021) (striking evidence introduced for the first time in a reply brief in support of a motion for preliminary injunction); *see also Munoz v. Menard, Inc.*, No. 18 CV 2571, 2019 WL 2994519, at *3 n.1 (N.D. Ill. July 9, 2019) (noting that the Court has "discretion as to whether to consider evidence raised for the first time in a reply brief" but that if considered, the opponent must be given an opportunity to respond.") (internal citations omitted).

Dated: October 31, 2022

Respectfully submitted,

/s/ Ziyong Li

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CERTIFICATE OF SERVICE

I certify that, on October 31, 2022, a copy of the foregoing *Motion for Leave to File Sur-Reply* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Ziyong Li
Ziyong Li (*pro hac vice*)

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